



## Legislation Text

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### *Department of Utilities*

**Reference:** Water Dedication Code Amendment

**To:** Mayor Gregory Mills and Members of City Council

**Through:** Michael P. Martinez, City Manager

**Prepared By:** Scott Olsen, Assistant Director of Utilities

**Date Prepared:** December 15, 2022

### **BACKGROUND**

City Council adopted Ordinance No. 2379 on December 21, 2021, regarding water dedication and fee-in-lieu of water dedication. Since the adoption of the ordinance, input received from the Development Community as well as further internal review has sparked the need for several clarifications and minor modifications. Further information on the clarifications and minor modifications is presented below.

### **PURPOSE**

To provide City Council with an overview of the ordinance clean-up process that has been undertaken to ensure that the City's water dedication and fee-in-lieu of water dedication requirements in Brighton Municipal Code are clear and concise. The clean-up process will ensure that the City continues to provide the best possible customer service to our residents, rate payers and the development community. Below is an outline of the clean-up items that have been addressed:

#### **Section 13-4-10:**

- Allow for flexibility for small developments to pay fee-in-lieu due to the inability to purchase small amount of raw water. Developments that are less than or equal to one acre in size or the amount of water dedication due to the City is less than and equal to five acre-feet will be allowed to pay the fee-in-lieu amount.
- Protect the City raw water resources by ensuring that no building permit will be issued without either water dedication or fee-in-lieu payment being made.
- Account for inflation in the cost of raw water resources by allowing the fee-in-lieu payment amount to be adjusted annually by the CPI percentage published by the Bureau of Labor Statistics.
- Provide clarification on the units per acre column from the single-family water dedication and fee-in-lieu table. There are units that could fall outside of the densities previously shown in the table in the existing ordinance.
- Move the parenthetical language from below the dedication/fee tables to a new subsection for clarification.
- Allow for the creation, by the City Manager, of an administrative policy to outline the requirements of the water resource report.
- Provide clarification on the timing of water dedication
  - Approval of Single-Family Development Administrative Plat or Final Plat will be contingent upon water dedication.
  - Approval of all other development types, including but not limited to commercial, industrial, mixed use, public land donation, parks, and common areas and accessory dwelling units, shall be contingent upon water dedication.
- Provide clarification on the timing of fee-in-lieu payments
  - Issuance of a Building Permit is contingent upon fee-in-lieu payments.

#### **Section 13-4-91:**

- Clarify that Accessory Dwelling Units (ADUs) that will increase the water demand for the property are eligible to pay the fee-in-lieu of water dedication.

### **STRATEGIC FOCUS AREAS**

Financially Responsible  
Sustainability

### **FINANCIAL IMPACT TO CITY**

The clarifications and minor modifications in the proposed ordinance and the allowance for an annual CPI increase to the fee-in-lieu payment amounts will ensure that the City has adequate funding for the Water Resources Division of the Utilities Department.

### **FINANCIAL IMPACT TO DEVELOPMENT COMMUNITY**

The proposed ordinance will allow for the annual increase of the fee-in-lieu payment amount based on the Consumer Price Index. Developers may be required to pay higher fees based on the state of the economy and the percentage by which the fee increases annually will fluctuate. The proposed ordinance will relieve some small developments and those with a small water demand from the expense and time-consuming efforts of locating raw water that is for sale and dedicating it to the City. In most instances, the water that is available for purchase and dedication to the City will be in amounts far greater than needed to serve the development. This will relieve the financial burden of over-purchasing water to serve small developments.

### **STAFF RECOMMENDATION**

City Staff recommends that the proposed ordinance be adopted by City Council to ensure the City's water resources are secure for the existing and future residents of the City.

### **OPTIONS FOR COUNCIL CONSIDERATION**

- Approve the proposed ordinance as presented.
- Reject the proposed ordinance as presented.
- Request modifications to the ordinance and bring the item back to City Council for future consideration.

### **ATTACHMENTS:**

- PowerPoint
- Ordinance